

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 21-1191 (DSD/TNL)

Clement David King,

Plaintiff,

v.

ORDER

Merrick B. Garland, U.S.A.G.;
Michael Carvajal, Dir. Of Bur.
of Prisons; S. Kallis, Warden,
FMC Rochester; Chad Orum, Work
Cadre Unit Manager, FMC Rochester;
Dr. M. Klein, Chief of Psychology,
FMC Rochester; Dr. Lucas, Psychologist,
FMC Rochester; J. Nerstad, Former
Correctional Systems Specialist,
FMC Rochester; and Lt. Gilbertson,
Property Lieutenant, FMC Rochester,

Defendants.

This matter is before the court upon plaintiff Clement David King's motion for an extension of time to comply with the August 5, 2021, report and recommendation (R&R) of United States Magistrate Judge Tony N. Leung. Based on a review of the file, record, and proceedings herein, the court denies King's motion and adopts the R&R in its entirety.

In his R&R, Judge Leung recommended dismissal under Federal Rule of Civil Procedure 41(b) for failure to prosecute because King had not paid the initial partial filing fee. In response, King requested additional time to submit the payment, and the court granted King's motion. See ECF Nos. 15, 16. King now seeks

another extension, arguing that he has been unable to submit payment amidst multiple transfers between prison facilities.¹

Despite his pro se status and present incarceration, King is still subject to deadlines just like any other litigant. The court recognizes that being transferred among numerous facilities undoubtedly affected King's ability to meet the relevant deadlines, but it also notes that he was first ordered to submit the filing fee on June 16, 2021. Thus, King has had over four months to arrange payment but has not done so. In light of King's prolonged failure to pay the required filing fee, the court finds that another extension is not warranted and that dismissal is appropriate. The court, however, will dismiss without prejudice so that King may refile when his circumstances change.

Accordingly, based on the R&R and the file, record, and proceedings herein, **IT IS HEREBY ORDERED that:**

1. The R&R [ECF No. 14] is adopted in its entirety; and
2. The case is dismissed without prejudice for failure to prosecute.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 1, 2021

s/David S. Doty
David S. Doty, Judge
United States District Court

¹ King also claims that he attempted to submit money from his Individual Indian Money account to cover the required fee. The court, however, has no record of this payment.